

1 SCHIFF HARDIN LLP  
 2 Stephen M. Hankins (Cal. Bar No. 154886)  
 3 One Market, Spear Street Tower  
 4 Thirty-Second Floor  
 5 San Francisco, CA 94105  
 Telephone: (415) 901-8700  
 Facsimile: (415) 901-8701  
 Email: shankins@schiffhardin.com

6 Attorneys for Defendant and Counter-Claimant  
 EASTMAN KODAK COMPANY

7  
 8  
 9  
 10 UNITED STATES DISTRICT COURT  
 11 SOUTHERN DISTRICT OF CALIFORNIA

12  
 13 DR SYSTEMS, INC., a California  
 14 corporation,

15 Plaintiff,

16 v.

17 EASTMAN KODAK COMPANY, a New  
 Jersey corporation,

18 Defendant.

19  
 20 AND RELATED COUNTER-CLAIMS.

21  
 22 Case No. 08 CV 0669 H BLM

23  
 24 **DECLARATION OF STEPHEN M.**  
 25 **HANKINS IN SUPPORT OF DEFENDANT**  
 26 **AND COUNTER-CLAIMANT EASTMAN**  
 27 **KODAK COMPANY'S OPPOSITION TO**  
 28 **PLAINTIFF DR SYSTEMS' MOTION TO**  
**COMPEL SUPPLEMENTAL DISCOVERY**  
**RESPONSES**

1 I, Stephen M. Hankins, declare as follows:

2 1. I have personal knowledge of the following matters and, if called to do so, could  
3 testify competently thereto. I am a partner of the law firm of Schiff Hardin LLP, counsel for  
4 Defendant and Counterclaimant Eastman Kodak Company ("Kodak") in this action. I am  
5 licensed and admitted to practice before this Court and the courts of the state of California.

6 2. On August 18, 2008, at the request of counsel for Plaintiff DR Systems, Inc.  
7 ("DR"), a telephonic conference was conducted. Counsel for the parties and the clerk of this  
8 Court, Luke Faden, participated. Kodak's counsel informed DR's counsel that Kodak agreed to  
9 produce whatever documents remained at Kodak relating to the product line, recognizing that  
10 such documents may be relevant to the commercial success of the claimed invention. Kodak  
11 informed DR during that call that Kodak had already produced all documents in its possession  
12 relating to pending and abandoned patent applications. Kodak also confirmed on that call – as  
13 well as on an August 15 call between counsel for the parties – that it had produced all non-  
14 privileged documentation it had discovered on the prosecution of the patent-in-suit or related  
15 foreign patents. Counsel for Kodak further advised that documents relating to Kodak's former  
16 PhotoCD line of products would be produced. Counsel for Kodak also informed DR's counsel  
17 during both calls of the transfer of Kodak's former medical imaging business and Kodak's  
18 resultant lack of possession, custody or control of the documents relating to the medical imaging  
19 business or products. During the conference, DR's counsel acknowledged that it had issued a  
20 subpoena upon Carestream Health, Inc. and stated that it would rather not move to compel  
21 production under it.

22 3. Kodak's licenses referencing the patent-in-suit that we have discovered require  
23 written approval of the licensees prior to their disclosure. We have requested such approval and  
24 as of the date of this declaration, we await the requisite written approval of the licensees.

25 4. The categories of documents at issue include documents dating back to the 1990s.  
26 Consequently, finding and identifying responsive documents is made more difficult and time-  
27 consuming, and such documents are being produced promptly upon receipt by Kodak's counsel.

28 5. In electronic correspondence dated June 30, 2008, counsel for the parties agreed to

1 a mutual two-week extension for the parties' respective discovery responses.

2 6. Attached hereto as Exhibit A is a true and correct copy of DR Systems' First Set of  
3 Requests for Production to Eastman Kodak Company (Nos. 1-55).

4 7. Attached hereto as Exhibit B is a true and correct copy of Eastman Kodak  
5 Company's Objections and Responses to DR Systems' First Set of Requests for Production (Nos.  
6 1-55).

7 8. Attached hereto as Exhibit C is a true and correct copy of a press release obtained  
8 from the internet, dated January 30, 2007, describing the sale of Kodak's medical imaging  
9 business, which became a separate and independent business entity called Carestream Health, Inc.

10 9. Attached hereto as Exhibit D is a true and correct copy of correspondence from  
11 counsel for Kodak to DR's counsel, dated August 21, 2008.

12 I declare under penalty of perjury under the laws of the United States of America that the  
13 foregoing is true and correct.

14 Executed this 29<sup>th</sup> day August, 2008, in San Francisco, California.

15  
16  
17 /s/ Stephen M. Hankins  
18 Stephen M. Hankins  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Certificate of Service**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service were served the 29<sup>th</sup> day of August, 2008, with a copy of this document and the attached exhibits via the Court's CM/ECF system. I certify that all parties in this case that have made an appearance to date are represented by counsel who are CM/ECF participants.

Dated: August 29, 2008

Respectfully submitted,  
Schiff Hardin LLP

By: /s/ Stephen M. Hankins  
Stephen M. Hankins  
Attorneys for Defendant and  
Counterclaimant Eastman Kodak Company